

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

In re:

**SCOTT FAIR,
ROSEANNA FAIR,**

Debtors.

Case No. 09-10008-SSM
Chapter 7

**MOTION TO EXTEND THE TIME TO FILE
MOTION TO DISMISS PURSUANT TO 11 U.S.C. §§ 707(b)(1) AND (b)(3)**

COMES NOW, W. CLARKSON McDOW, JR., UNITED STATES TRUSTEE and, pursuant to Bankruptcy Rule 1017(e), hereby requests an extension of time to file a motion to dismiss this case pursuant to 11 U.S.C. §§707(b)(1) and (b)(3) of Scott and Roseanna Fair, the debtors herein. In support of his motion the United States Trustee states the following:

1. Pursuant to §307 of the Bankruptcy Code, the United States Trustee may raise and may appear and be heard on any issue in any case or proceeding under the Bankruptcy Code. Further, pursuant to 28 U.S.C. §586, the United States Trustee supervises the administration of cases filed under Chapters 7, 11, 12, and 13 of the Bankruptcy Code.

2. The debtor commenced this proceeding by filing a voluntary Chapter 7 petition on January 2, 2009, together with their schedules and statement of financial affairs.

3. On February 11, 2009, the debtors appeared and testified, under oath, at their scheduled meeting of creditors conducted by panel trustee, Donald F. King, Esq.

4. The U.S. Trustee has requested additional documentation from the debtor in order to assess the financial circumstances of the debtor. Therefore, the U.S. Trustee would like

additional time to file a motion to dismiss.

5. Pursuant to Bankruptcy Rule 1017(e)(1), the last day for filing a motion to dismiss pursuant to §707(b) of the Bankruptcy Code is April 13, 2009.

6. Bankruptcy Rule 1017(e)(1) also provides that the time period for filing a motion to dismiss can be extended for cause upon the motion of the United States Trustee.

7. The United States Trustee is requesting this extension of time so that he can complete his investigation of the circumstances in this case, and obtain and review such documents and other information that will enable him to determine whether a motion to dismiss is warranted in this case. Further, the United States Trustee is making this request in compliance with his mandated role as watch-dog against fraud, abuse, and over-reaching in the bankruptcy arena.

8. Extensions of time for objecting to discharge should be granted liberally absent a clear showing of bad faith on the part of the party requesting the extension. *In re Kellogg*, 41 B.R. 836, 838 (Bankr. W.D. Okla. 1984).

9. In addition, the granting of the requested extension will not prejudice the debtor in any way and will not impede the efficient administration of the case. *See, In re Knobel*, 54 B.R. 458, 461 (Bankr. D. Colo. 1985) (extension of time to object to debtor's discharge granted where extension requested by creditor was not made in bad faith, the delay as a result of the extension is insubstantial and would not adversely affect the administration of the case, and the extension would not result in any prejudice to the debtor).

10. The United States Trustee requests an extension of the time to file a motion to dismiss pursuant to 11 U.S.C. §707(b), until **June 22, 2009**.

WHEREFORE, THE UNITED STATES TRUSTEE MOVES THE COURT TO:

1. Extend the time for filing a motion to dismiss pursuant to 11 U.S.C. §707(b) to *June 22, 2009*;
2. Grant such further relief as the Court may deem just and fair.

Respectfully requested,
W. CLARKSON MCDOW, JR.
United States Trustee
Region Four

By: /s/ Jack J. Frankel
Jack I. Frankel
Trial Attorney
Office of the U.S. Trustee
115 S. Union St., Suite 210
Alexandria, Virginia 22314
(703) 557-7229

CERTIFICATE OF SERVICE

I, the undersigned, do hereby verify and certify under penalty of perjury that on the 13th day of April, 2009, I served those parties listed below, with true and correct copies of the **MOTION TO EXTEND THE TIME TO FILE A MOTION TO DISMISS PURSUANT TO 11 U.S.C. §§707(b)(1) AND (b)(3)**, via First Class U.S. Mail, postage pre-paid.

Scott Fair
Roseanna Fair
11025 Westmore Drive
Fairfax, VA 22030

Jeffrey M. Sherman
Semmes, Bowen & Semmes
1001 Connecticut Ave. Suite 1100
Washington, DC 20036

Donald F. King
9302 Lee Highway, Suite 1100
Fairfax, VA 22030

By: /s/ Anthony M. Payton
Anthony M. Payton
Legal Clerk

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

In re:

**SCOTT FAIR,
ROSEANNA FAIR,**

Debtors.

Case No. 09-10008-SSM
Chapter 7

**ORDER GRANTING EXTENSION OF TIME TO FILE A MOTION TO DISMISS
PURSUANT TO 11 U.S.C. §§707(b)(1) AND (b)(3)**

Upon consideration of the United States Trustee's Motion to Extend Time to File a Motion to Dismiss Pursuant to 11 U.S.C. §§707(b)(1) and (b)(3), the Court having reviewed the record in this matter finds that there is just and sufficient cause, pursuant to Rule 1017(e)(1), to extend the time to file a motion to dismiss pursuant to 11 U.S.C. §§707(b)(1) and (b)(3).

IT IS HEREBY ORDERED THAT:

1. The United States Trustee shall have until *June 22, 2009* within which to file a motion to dismiss pursuant to §§707(b)(1) and (b)(3);
2. No discharge shall be granted the debtor pending resolution of this matter.

Dated

STEPHEN S. MITCHELL
UNITED STATES BANKRUPTCY JUDGE

I ASK FOR THIS.

/ S / Jack I. Frankel

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